

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<div>IN RE:</div> <div>IOWA COUNTY E-9-1-1 BOARD,</div> <div>Complainant,</div> <div>vs.</div> <div>SOUTH SLOPE COOPERATIVE TELEPHONE COMPANY,</div> <div>Respondent.</div>	<div>DOCKET NO. FCU-02-12</div>
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ORDER DENYING MOTION TO DISMISS

(Issued August 30, 2002)

On June 11, 2002, Iowa County E-9-1-1 Board (Iowa County) filed a complaint with the Utilities Board (Board) against South Slope Cooperative Telephone Company (South Slope). The filing has been identified as Docket No. FCU-02-12. On June 28, 2002, the Board issued an "Order Docketing Formal Complaint Proceeding and Requesting Response" in this docket.

On July 17, 2002, South Slope filed a response in compliance with the Board's June 28, 2002, order, as well as a motion to dismiss the complaint. In support of its motion, South Slope asserts that the Board does not have jurisdiction over South Slope's rates, including the monthly surcharge assessed to Iowa County for E-9-1-1 services. South Slope cites Iowa Code § 476.1, which provides that:

[C]ooperative telephone corporations or associations, telephone companies having less than fifteen thousand customers and less than fifteen thousand access lines, municipally owned utilities, and unincorporated villages which own their own distribution systems are not subject to the rate regulation provided for in this chapter.

South Slope asserts that since it is a cooperative telephone corporation, it is not subject to rate regulation by the Board pursuant to section 476.1.

On July 31, 2002, both Iowa County and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed responses to South Slope's motion to dismiss the complaint. In its response, Consumer Advocate suggests the Board may have specific jurisdiction over the surcharge imposed by South Slope pursuant to Iowa Code § 34A.8.

Iowa Code § 34A.8 states in pertinent part:

A local exchange service provider shall furnish to the E911 service provider, designated by the joint E911 service board, all names, addresses, and telephone number information concerning its subscribers which will be served by the E911 system and shall periodically update the local exchange service information. The local exchange service provider shall receive as compensation for the provision of local exchange service information charges according to its tariffs on file with and approved by the Iowa utilities board.

At issue in this complaint are the charges levied by South Slope against Iowa County for the maintenance and management of the E-9-1-1 database, which is the type of information service specifically addressed in section 34A.8. The language of section 34A.8 authorizes a carrier to collect database management charges in accord with tariffs approved by the Board, thereby granting the Board the authority to review

and approve the charges. As this section is not included in the public utility regulation chapters provided for in Iowa Code chapter 476, the Board has jurisdiction over the database management charges assessed by South Slope.

The Board is aware that the parties are attempting to settle this matter without additional proceedings in this docket. Therefore, the Board will not establish a procedural schedule at this time. Rather, Board staff will be directed to arrange to meet with both parties within 14 days of the date of this order and attempt to facilitate a settlement.

IT IS THEREFORE ORDERED:

The motion to dismiss filed by South Slope Cooperative Telephone Company on July 17, 2002, in Docket No. FCU-02-12, is denied as described in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 30th day of August, 2002.